

ensus, for paying- the judges and other officers of government, for establishing a militia, for naturalization as prescribed by the Constitution, or if they fail to- meet in Congress, the judges cannot issue their mandamus to them; if the President fails to supply the place of a judge, to appoint other civil or military officers, to issue requisite commissions, the judges cannot force him. They can issue their mandamus or distringas to\* no executive or legislative officer to enforce the fulfilment of their official duties any more than the President or Legislature may issue orders to the judges or their officer. Betrayed by English example, and unaware, as it would seem, of the control of our Constitution in this particular, they have at times overstepped their limit by undertaking to command executive officers in the discharge of their executive duties; but the Constitution, in keeping three departments distinct and independent, restrains the authority of the judges to judiciary organs, as it does the executive and legislative to executive and legislative organs, the judges certainly have more frequent occasion to act on institutional questions, because the laws of *meum* and *tuum* and of criminal action, forming the great mass of the system of law, constitute their particular department. When the legislative or executive functionaries act unconstitutionally they are responsible to the people in their elective capacity. The ex-emption of the judges from that is quite dangerous enough. I know of no safe depository of the ultimate powers of society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion by education. This is the true corrective for abuses of constitutional power. (To Mr. Jarvis, 1820. C. VII., 178.) JUDICIARY, FEDERAL.—But there was another amendment (to the Constitution) of which none of us thought at the time, and in the omission of which lurks the germ that is to destroy this lappy combination of national powers in the general government for matters of national concern and independent powers in the States for what concerns the States severally. **11** England it was a great point gained at the Revo-